

REMARKS

In response to an office action dated June 6, 2005 in the above-identified application, which imposed a requirement for restriction/election on applicants, applicants provisionally select Group II, claims 10-14 directed at various polypeptides and further provisionally elect SEQ ID NO:7. In this regard, claim 10 is amended slightly to direct at a polypeptide associated with a ligand. Dependent claims 11-14 are also amended accordingly. Claims 1-9 and 15-40 are canceled and new dependent claims 41-50 are added. Claims 10-14 and 41-50 read on provisionally elected SEQ ID NO:7. Applicants traverse the restriction/election requirement below.

A. SEQ ID NO:7 and 9 should examined together

The present invention belongs to the field of biotechnology and according to MPEP 803.04, the Commissioner has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 *et seq.* (restriction requirements) for biotechnology inventions and permit a reasonable number of nucleotide sequences to be claimed in a single application. According to MPEP 803.04, ten independent and distinct nucleotide sequences will be examined in a single application without restriction. Applicants believe that the same applies to amino acid sequences.

As claim 10 is amended to recite “a murine synaptotagmin II BoNT/B-binding domain,” the species election remains relevant with respect to SEQ ID NO:7 and 9. For the reason discussed above, it is respectfully submitted that SEQ ID NO:7 and 9 should be examined together. Furthermore, the fragment of SEQ ID NO:7 and the fragment of SEQ ID NO:9 as recited in the claims differ from each other by only one amino acid and thus they can be examined together without serious burden.

B. Group I-V should be examined together

Restriction requirements are optional in all cases. MPEP § 803. If the search and examination of a set of claims can be made without serious burden, the Examiner must examine them on the merits, even though they may arguably be directed at distinct or independent inventions. MPEP § 803. Applicants respectfully submit that groups I-V claims are directed at highly related subject matter and thus can be examined together without serious burden. On the contrary, it will be unnecessarily burdensome on both the applicants and the patent office to consider the highly related subject matter in several separate patent applications.

For the above reasons, it is respectfully requested that the restriction requirement be reconsidered and withdrawn. Wherefore examination on the merits is respectfully requested.

A petition for two months extension of time accompanies this response so that the response will be deemed to have been timely filed. If any other extension of time is required in this or any subsequent response, please consider this to be a petition for the appropriate extension and a request to charge the petition fee to the Deposit Account No. 17-0055. No other fee is believed to be due in connection with this response. However, if any fee is due in this or any subsequent response, please charge the fee to the same Deposit Account No. 17-0055.

Respectfully submitted,



Zhibin Ren
Reg. No. 47,897
Attorney for Applicants
QUARLES & BRADY LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202-4497
TEL (414) 277-5633
FAX (414) 271-3552

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